

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Information Collection Being Reviewed by the)	82 Fed. Reg. 47735
Federal Communications Commission Under)	OMB Control Number: 3060-1242
Delegated Authority)	
)	WT Docket No. 10-208
Qualified 4G LTE Coverage Data Collection)	
for Mobility Fund Phase II)	

COMMENTS OF COMPETITIVE CARRIERS ASSOCIATION

Competitive Carriers Association (“CCA”)¹ respectfully submits these comments in response to the Notice² filed by the Federal Communications Commission (“FCC” or “Commission”) pursuant to the Paperwork Reduction Act (“PRA”) regarding the one-time data collection of 4G LTE coverage data. The Commission plans to use this data to determine the areas in which there is deployment of qualified LTE, and therefore the resulting distribution of Mobility Fund II (“MF II”) support for areas that are lacking such services (the “Data Collection”).³

¹ CCA is the nation’s leading association for competitive wireless providers and stakeholders across the United States. CCA’s membership includes nearly 100 competitive wireless providers ranging from small, rural carriers serving fewer than 5,000 customers to regional and national providers serving millions of customers. CCA also represents associate members including vendors and suppliers that provide products and services throughout the mobile communications supply chain.

² *Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority*, 82 Fed. Reg. 47735 (Oct. 13, 2017) (“PRA Notice”) (seeking comment on the extension of a currently approved information collection). The Office of Management and Budget previously approved, on an emergency basis, the subject information collection of this proceeding until March 31, 2018. *Information Collection Approved by the Office of Management and Budget*, 83 Fed. Reg. 46494 (Oct. 5, 2017) (“OMB Emergency Approval”).

³ See *Comment Sought on Mobility Fund Phase II Challenge Process Procedures and Technical Implementation*, Public Notice, WC Docket No. 10-90, WT Docket No. 10-208, DA 17-1027 (rel. Oct. 18, 2017) (“Challenge Process Public Notice”); *Instructions for Filing 4G LTE*

DISCUSSION

CCA supports Chairman Pai's goal of ensuring that rural Americans receive the same digital access as their urban counterparts. For this reason, CCA recognizes the FCC's work to facilitate a robust and efficient MF II program which represents an important step toward Chairman Pai's vision, and "is critically important to supporting mobile voice and broadband coverage, incentivizing the deployment of mobile wireless through a reverse auction, and ensuring that 4G LTE service is preserved and advanced in those areas of the country that lack unsubsidized service."⁴ As a result of the FCC's work, a total of \$4.53 billion in MF II support will be distributed to primarily rural areas that lack unsubsidized, qualifying 4G LTE service.

But to adequately close the digital divide, the FCC must ensure that areas lacking qualifying service are properly identified. As part of its latest MF II program reforms, the Commission has designed a one-time Data Collection that will produce current 4G LTE coverage data from a significant representation of mobile providers, to ultimately establish a map of areas presumptively eligible for MF II support.⁵ The Commission estimates that for this Data Collection: (1) there will be a total of 50 respondents/responses; (2) each respondent will spend 64 hours per response; and (3) the total cost associated with preparing this data request will be \$0.00. The current time and resource estimates, particularly those regarding finances required to comply, do not reflect a realistic understanding of the burdens associated with this Data

Coverage Data to Determine Areas Presumptively Eligible for Mobility Fund II Support, WC Docket No. 10-90, WT Docket No. 10-208 (rel. Sept. 22, 2017) ("Recollection Public Notice"). See also *Connect America Fund, Universal Service Reform – Mobility Fund*, Order on Reconsideration and Second Report and Order, 32 FCC Rcd 6282 (2017) ("MF II Challenge Process Order"); *Connect America Fund, Universal Service Reform – Mobility Fund*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 2152 (2017) ("MF II Report and Order" or "MF II FNPRM")

⁴ MF II Challenge Process Order ¶ 1.

⁵ *Id.* ¶ 28.

Collection, and must be adjusted before the FCC submits these estimates to the Office of Management and Budget (“OMB”) for final review.

The one-time Data Collection, due January 4, 2018, requires that data be filed by any entity that (a) previously reported LTE coverage on FCC Form 477, *and* (b) has qualified 4G LTE coverage based on the specifications established in the MF II Challenge Process Order of download speeds of 5 Mbps at the cell edge with 80 percent probability and a 30 percent cell loading factor.⁶ All entities that previously reported 4G LTE coverage on FCC Form 477 are required to submit a certification, including the name and qualifications of a qualified engineer – even if their 4G LTE coverage does not qualify under the established specifications.⁷ This certification requires the engineer to thoroughly examine the provider’s information and analysis and submit a statement under penalty of perjury.⁸ In other words, any carrier that has previously reported 4G LTE coverage is *required* to review and file documentation with the Commission.⁹

Despite these requirements, the FCC estimates that responding providers will incur *no cost* in preparing the data and/or certifications, and provides no justification for arriving at this estimate. Indeed, as CCA’s members can attest, it is nearly impossible for a wireless provider, particularly smaller carriers, to spend 64 hours compiling and assessing data without any

⁶ Recollection Public Notice at 2.

⁷ *Id.* 5.

⁸ *Id.*

⁹ Furthermore, carriers that may not fit the Data Collection parameters also have an incentive to file data on January 4, 2018. Although the FCC limited the scope of the Data Collection in an effort to address smaller providers’ concerns regarding the burden of a new filing, this has not eliminated the need for such providers to ensure that they are involved in the MF II process and to assist the Commission in compiling the most accurate data possible. *See* MF II Challenge Process Order ¶¶ 11, 12. The Commission must recognize this dynamic and account for these “voluntary” filings in their burden estimates as well by increasing the number of respondents, the estimated total annual burden and associated costs.

associated costs. And Commissioner O’Rielly would likely agree, as he previously explained that “all regulations carry costs. . . .”¹⁰ Indeed, to comply with the Data Collection, many competitive carriers, especially rural and regional providers, will need to invest in new data systems, provide for processing and maintenance of these systems, and expend their personnel resources.¹¹

Moreover, competitive carriers have a limited number of staff and resources to dedicate for compliance purposes. For this reason, many rural and regional carriers rely on contract engineers or third-party vendors to prepare and submit the required data and/or certification; such services are not free, and therefore must be considered in the FCC’s adjustment of its cost estimate. In particular, the total annual cost fails to capture a realistic view of how carriers will participate in the data collection process. Universal coverage is a core tenet of Chairman’s Pai policy agenda, and a statutory requirement, and there is a data problem preventing the FCC from properly allocating MF II support; the FCC therefore cannot credibly find that costs associated with performing the data collection are zero. Indeed, carriers serving areas with overstated coverage need USF support to operate, and thus likely will participate in the data collection process to ensure an accurate coverage picture in their service territories, using third-party vendors. Specifically, certain CCA members providing service in rural and regional areas estimate that third-party costs will equal between \$15,000-\$20,000, ranging from obtaining engineering consultants and service upgrades, and preparing filing materials and other related

¹⁰ Remarks of FCC Commissioner Michael O’Rielly, “TPRC 44: Research Conference on Communications, Information and Internet Policy” at p. 1. Commissioner O’Rielly further explained that “it is incumbent on every federal agency to determine whether the rules it proposes will result in costs to providers, consumers or society as a whole. . . .”

¹¹ Providers “will be required to file propagation maps and model details with the Commission indicating their current 4G LTE coverage.” 82 Fed. Reg. 47736.

compliance work for the one-time data collection. And this is likely a conservative estimate. Other CCA members serving rural areas of the United States estimate that it is over \$40,000 to hire engineering consultants to produce the information necessary for the one-time collection. The rationale that time spent complying with the technical requirements of the Data Collection, which must then be backed by a certification, would cost nothing in either direct or third-party costs is therefore misguided, and must be revised to take into account the actual *real* costs associated with this Data Collection.¹²

Indeed, the FCC also should readjust its time estimates before it submits for approval this Data Collection to OMB. As noted, the FCC estimates that the time per response per respondent is 64 hours; yet CCA members predict that the time necessary to respond to the one-time data collection is upwards of 80-200 hours of internal labor per respondent, far exceeding the FCC's estimate. Additionally, while the Data Collection was initially submitted to- and approved by- OMB on an emergency basis, the FCC is now seeking comment on the burdens associated with its estimates. These comments will be submitted 15 business days before the Data Collection is due to the FCC.¹³ The FCC will then need to review and consider the comments submitted in response to the PRA Notice and submit a rule to OMB for review, upon which OMB will then open a 30-day PRA comment period. OMB is required to wait until the end of this 30-day period before taking action, and also has an additional 30 days to either approve, deny or refrain from ruling on the Data Collection. In the most streamlined scenario, even if the FCC were to

¹² Chairman Pai has recognized that the economics staff at the FCC is of high-quality and “no doubt the best in Washington in their understanding of the economics of telecommunications and the Internet” but are “not always used optimally. It’s a serious opportunity cost for us and for the public.” Remarks of FCC Chairman Ajit Pai at the Hudson Institute, “The Importance of Economic Analysis at the FCC” at p. 2 (Apr. 5, 2017) https://apps.fcc.gov/edocs_public/attachmatch/DOC-344248A1.pdf

¹³ This timeframe does not account for weekends and holidays when the FCC is closed.

submit a rule and seek OMB approval the day after the PRA Notice comments are filed (*i.e.*, December 13) (which is highly unlikely since that short turn around would not provide the FCC with a meaningful chance to review the public comments), the earliest that OMB could approve the collection extension would be January 11, 2018 – one week *after* the Data Collection due date. That timeline undermines the basis for an extension of the Data Collection at that point, which should not be subverted in such a manner.

CCA supports the FCC's goal to expeditiously move forward in this proceeding, but it must do so in a way that will produce the best and most accurate data. To meaningfully examine the record and consider the additional burdens that will be placed on competitive carriers, the FCC should garner a realistic and appropriate estimate of the burdens associated with the Data Collection.

CONCLUSION

CCA urges the FCC to review and revise its initial burden assessments for the Data Collection to reflect an accurate assessment of the number of respondents, time, and most notably, costs associated with the Data Collection. The FCC also should extend the January 4, 2018 Data Collection deadline to account for the procedural review timeframe.

Respectfully submitted,

/s/ Rebecca Murphy Thompson
Steven K. Berry
Rebecca Murphy Thompson
Courtney Neville
COMPETITIVE CARRIERS ASSOCIATION
805 15th Street NW, Suite 401
Washington, DC 20005
(202) 449-9866

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